



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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MAR 29 2016

RE: MUR 7026
(formerly 15L-36)
Democratic Executive Committee
of Florida and Judy Mount in her
official capacity as treasurer

Dear Mr. Reiff:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting that your clients, the Democratic Executive Committee of Florida and Judy Mount in her official capacity as treasurer (the "Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On October 5, 2015, the Commission notified the Committee that it was being referred to the Commission's Office of the General Counsel for possible enforcement action under 52 U.S.C. § 30109. On March 15, 2016, the Commission found reason to believe that the Committee violated 52 U.S.C. § 30104(e)(2), a provision of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and § 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

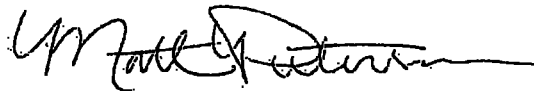
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resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law. Enclosed is a conciliation agreement for your consideration,

If you are interested in engaging in pre-probable cause conciliation, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

We look forward to your response.

On behalf of the Commission,



Matthew S. Petersen
Chairman

Enclosures
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENTS:** Democratic Executive Committee of Florida **MUR: 7026**
4 and Judy Mount in her official capacity as treasurer
5

6 **I. INTRODUCTION**

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8 This matter was generated based on information ascertained by the Federal Election
9 Commission ("the Commission") in the normal course of carrying out its supervisory
10 responsibilities. *See* 52 U.S.C. § 30109(a)(2).

11 The Reports Analysis Division ("RAD") referred the Democratic Executive Committee
12 of Florida and Judy Mount in her official capacity as treasurer (collectively, the "Committee") to
13 the Office of General Counsel ("OGC") for failing to disclose the receipt of Levin Funds totaling
14 \$232,457.33 on its 2014 12-Day Pre-General Report.¹ For the reasons discussed below, the
15 Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(e)(2).

16 **II. FACTUAL AND LEGAL ANALYSIS**

17 **A. Background**

18 The Committee is a state party committee of the Democratic Party.² On October 23,
19 2014, the Committee filed the original 12-Day Pre-General Report, which disclosed no receipts
20 on Line 18(b) (Transfers from Levin Funds, from Schedule H5) of the Detailed Summary Page.³

¹ See RAD Referral (Sept. 29, 2015), incorporated herein by reference.

² See Democratic Executive Committee of Florida, Amended Statement of Organization (February 20, 2015) available at <http://docquery.fec.gov/pdf/142/14960034142/14960034142.pdf>.

³ The original 12-Day Pre-General Report included a Schedule L (FEC Form 3X) (Aggregation Page: Levin Funds) and Schedule L-A (Itemized Receipts of Levin Funds), disclosing \$235,000 in itemized Levin receipts, but did not include a Schedule H5 (Transfers of Levin Funds Received for Allocated Federal Election Activity).

1 On January 21, 2015, the Committee filed an Amended 2014 12-Day Pre-General Report,
2 disclosing \$232,457.33 in receipts on Line 18(b) that were not disclosed in the original filing.⁴

3 On March 22, 2015, RAD sent a Request For Additional Information ("RFAI") to the
4 Committee requesting clarification regarding the disclosure of additional Levin fund receipts
5 totaling \$232,457.33.⁵ On April 27, 2015, the Committee filed a second Amended 2014 12-Day
6 Pre-General Report, which disclosed no change in receipts from the previous amendment and
7 included a memo text in response to the RFAI.⁶ The memo text stated:

8 The committee inadvertently omitted transfers made on Line H5
9 and 4c due to confusion by the committee of the proper use of
10 Levin funds. The committee discovered these errors during the
11 preparation of the year-end report and filed an amendment. The
12 amendment being filed today includes an additional transfer on
13 Schedule L, Line 4c from the Levin account which was
14 inadvertently omitted from the latest amendment.⁷

15
16 On June 2, 2015, the Committee filed two Amended 2014 12-Day Pre-General Reports,
17 but the reports disclosed no change in receipts from the previous amendment and no change in
18 the memo text included with the previous amended report.⁸ On July 7, 2015, RAD contacted the
19 Committee's Finance Director to inform her that the increase in receipts disclosed could be

⁴ The Amended Report included Schedule H5 (Transfers of Levin Funds Received for Allocated Federal Election Activity and Schedule L-B (Itemized Disbursements of Levin Funds) that were omitted from the Committee's original 12 Day Pre-General Report.

⁵ See RR 15L-36 at 1-2.

⁶ *Id.* at 2.

⁷ The Committee's January 21, 2015, amended report disclosed \$167,065.14 on Line 4(c) (Transfers to Federal or Allocation Account, GOTV) on Schedule L (Aggregation Page: Levin Funds). That amount was corrected to \$232,457.33 on Schedule L of the April 27, 2015, amended report. *Id.* On May 13, 2015, RAD sent the Committee an RFAI to correct a page reference in the March 22, 2015, RFAI, that stated that the increased receipts were disclosed on the Schedule L Aggregation page rather than on the Detailed Summary Page. *Id.*

⁸ *Id.*

1 referred for further action by the Commission and the Committee could file a Miscellaneous
2 Electronic Submission if there was further information to disclose about the increased activity.⁹
3 The Committee has not submitted anything more to date.¹⁰

4 RAD referred the Committee to OGC for disclosing a total of \$232,457.33 in additional
5 receipts on its Amended 2014 12-Day Pre-General Report, a 21% increase in the overall receipts
6 reported in the original 2014 12-Day Pre-General Report. Upon receipt of the Referral, OGC
7 notified the Committee and provided it with an opportunity to respond.¹¹

8 In Response, the Committee acknowledges the reporting error but asserts that it was
9 caused by confusion regarding the proper disclosure of Levin funds.¹² Specifically, the
10 Committee asserts that its Levin fund activities during the 2014 election cycle were the first since
11 2010 and the staff member responsible for the disclosure reports "did not have experience in the
12 disclosure of Levin activity"¹³ Finally, the Committee states that the error was discovered
13 after the election when it consulted with counsel on the proper handling of Levin activities and
14 that it promptly filed amended reports to correct the error.¹⁴

⁹ *Id.*

¹⁰ *Id.*

¹¹ See Notification Letter to Judy Mount, Treasurer, Democratic Executive Committee of Florida (Oct. 5, 2015); see also Agency Procedure for Notice to Respondents in Non-Complaint Generated Matters, 74 Fed. Reg. 38,617 (Aug. 4, 2009).

¹² Resp. at 1 (Nov. 17, 2015).

¹³ *Id.*

¹⁴ *Id.* at 1-2.

B. Legal Analysis

The Federal Election Campaign Act of 1971, as amended (the “Act”) requires committee treasurers to file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104. If a state, district, or local party committee’s combined annual receipts and disbursements for federal election activity (“FEA”) are \$5,000 or more during the calendar year, then it must disclose receipts and disbursements of federal funds and Levin funds used for FEA.¹⁵

Here, the Committee did not comply with the Act’s reporting requirements when it failed to disclose \$232,457.33 in Levin fund receipts used for FEA on its original 2014 12-Day Pre-General Report. The Committee states that lack of experience in handling Levin activities caused the error — both staff inexperience and the four-year gap since it last engaged in such activities.¹⁶ Regardless, the Committee acknowledges its reporting error.¹⁷

Therefore, the Commission finds reason to believe that the Democratic Executive Committee of Florida and Judy Mount in her official capacity as treasurer violated 52 U.S.C. § 30104(e)(2).

¹⁵ See 52 U.S.C. § 30104(e)(2)(A); 11 C.F.R. § 300.36(b)(2).

¹⁶ The Committee appears to have properly disclosed its Levin activity in 2010.

¹⁷ Resp. at 2.